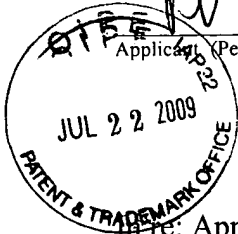


IFW

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Mail Stop: Petition to the PTO commissioner Objections on procedural matters
Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450 on July 20, 2009


Applicant (Peter Migaly, M.D.)

July 20, 2009
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: Application of	:	COMBINATION THERAPY FOR
	:	DEPRESSION, PREVENTION OF
Peter Migaly	:	SUICIDE, AND VARIOUS MEDICAL
	:	AND PSYCHIATRIC CONDITIONS
Application Serial Number 10/627,358	:	
	:	pro se (no layer) case
Filing Date: July 23, 2003	:	former Docket Number: 290194-00001
	:	
Examiner: Eric Olson	:	Art Unit 1614

Renewed Petition under 37 CFR 1.181:

Reconsideration request on objections on procedural matters,
petition to the PTO commissioner to overrule a subordinate,
and AMENDMENT AND RESPONSE submitted on March 11, 2009

July 20, 2009

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This response is a Reconsideration request on objections on procedural matters, petition to the PTO commissioner to overrule a subordinate, and AMENDMENT AND RESPONSE submitted with verified showing (declaration) on March 11, 2009:

This is in response to the Office Action Dated May 22, 2009.

In addition, please note that the **Applicant has lost his attorney representation, is relying on your guidance**, and that his best (timely) contact is through his cell phone (724)840-0464

His address is Peter Migaly P. O. Box 237 Blairsville PA 15717

Renewed Petition under 37 CFR 1.181:

Reconsideration request on objections on procedural matters,
petition to the PTO commissioner to overrule a subordinate,
and AMENDMENT AND RESPONSE submitted on March 11, 2009

The PTO's Office Action (OA) Dated May 22, 2009 is half a page document with two lines and a very brief "discussion" that cites (37 CFR § 1.181 (c)) and states that the September 12, 2008 OA was not final and argues that the petition was therefore premature and consequently has dismissed the applicant's petition on that basis **without showing any evidence of reading the petition** or attempting any substantial response.

1) The PTO is kindly reminded that this is a reply to the 5th OA and the **PTO already had made a final decision on this application before**, however an RCE was filed that kept the application alive. **The very same patterns** on which the "objections on procedural matters" was based **did exist at the time the PTO had a final action**. Therefore the "excuse" of this most current OA is not substantiated for this reason (and also for other reasons outlined below).

2) The PTO is also kindly reminded to the **seriousness of this matter - that is to the unacceptable actions by the examiners** – with the proofs submitted with verified showing (declaration) to the PTO on March 11, 2009.

The seriousness of this matter was not only restricted to the number of times that the applicant was objected to said unacceptable behavior, but also to the use of pseudoscientific techniques by the examiners, and to the fact that the examiners were showing evidence that they did not even read the application and replies in its entirety. As we have noted before:

Objections on procedural matters was based on 34 different patterns (patterns that the examiners have repeated almost countless of times).

On page 9 of our March 11, 2009 reply we have also noted:

"Pseudo-scientific techniques used by the examiners has **strongly mimicked the profile and techniques used by conmen and psychopaths who want to take advantage of others."**

"Because of the strong nature of the above statement, the applicant feels compelled to make improvement to the society so that other applicants/inventors would not need to endure the same or similar adverse treatment. Therefore he presents the review of these pseudo-scientific and conman methods, and how that resembled the examiners maneuver. **Any continuation of these patterns** either by the PTO or later by other entities e.g. **by not reading** the documentations and thus putting extra burden on this applicant **would be regarded as continued and planned victimization of the applicant.**"

3) The PTO makes the current argument of "However, the examiner will be instructed to consider applicant's arguments set forth in the petition when the next action is prepared" (at page 1, lines 7-8).

In light of the content of the petition showing the seriousness of the matter and the unacceptable behavior of the examiners, this **applicant views the PTO's reply** to his letter petitioning the PTO Commissioner, **as if a judge would dismiss a case and would rule that "he would be instructing the child abuser to consider the arguments set forth, and let the victim back into the hands of the abuser"**, and on top of all if the judge would do this without reading or listening to the arguments made by the victim!

This is viewed as clearly unacceptable by the law no matter what legal § or “home made rule” is cited for the reason of that dismissing ruling.

The PTO too has dismissed the petition **without showing any evidence of reading the petition** or attempting any substantial response. The PTO did put the applicant back to the hands of the same examiners.

In addition, the **PTO seems to show the continuation of some of the objected patterns of the examiners** (i.e. not reading the applicant's response and ignoring it).

Please note that this is a reply to the 5th OA. **How many more times do you want this applicant to be exposed to the examiners unacceptable behavior that was repeated countless times as pointed out in the petition?** It was also pointed out that the examiners have not even read the application and replies in full.

As it was pointed out in the citation under #2) above, this applicant is **regarding the treatment he was exposed to as continued and planned victimization of the applicant**. He considers that the treatment he was exposed to met the criteria of abuse, and is strongly objecting to that and has and is requesting the PTO again to put a stop to that.

Therefore a detailed response to my petition to the PTO Commissioner is hereby also requested, wherein reading my petition it would become evident of why the applicant wants to avoid further victimization by the current examiners.

Please note, as it is well known in psychiatry (and in case of abusive behavior) that **the past behavior is the best predictor of future behavior**, therefore the PTO's current “ruling” of putting the applicant back to the same examiners' hand is hereby strongly objected. It is of note that the PTO should be familiar with the field of psychiatry and thus know the above fact on predicting future behavior, (as the field being examined by the PTO is the field of psychiatry). (See also last paragraph at page 22 of the petition).

4) The field of psychiatry also knows that stress in any normal person can elicit depression and adverse effects. (It can reduce the immune system and publications were raising the question early on (decades ago) of this consequently increasing the risk of cancer [and being deadly]). Stress and depression also leads to the death of brain cells. It is known that depression is also elicited by stress and learned helplessness. (The applicant cannot help but wonder that if the PTO ignoring the applicant and not reading his application and replies would elicit very similarly a learned helplessness). In fact the examiners and the PTO could not avoid knowing about this information that was within the subject matter described and being examined herein (e.g. described under neuroplasticity, and in describing depression). (As my other PTO application 11/034,447 points out, depression can also be seen as a continuum.) Thus by definition the examiners were experts or knowledgeable in that field and should know all about this adverse stress effect(s). It is also known in the field of psychiatry, that those suffering from mental illness (including depression) die prematurely (like from cardiovascular complications). Since it was described in the (provisional application and/or) application, in the replies (and in the field) that any normal person who is subjected to adverse environmental stress can become depressed (see the Stanford prison experiments mentioned in our application), it becomes an interesting thought, that *if any court would see this action of subjecting a person to such treatment as a criminal act* (e.g. battery, murder, murder attempt, etc); that is that if a purposeful action of subjecting someone repeatedly to such an adverse effect, extreme stress, that can elicit such an adverse reaction in any normal person and thus consequently lead to a premature death would be seen as a criminal act.

If so, this may even be more seriously questioned if the person unreasonably subjecting the “victim” to such unreasonable adverse effects would be familiar of the above-described outcome (premature death and other consequences) of these effects.

Therefore the PTO is repeatedly asked to put a stop of the unreasonable adverse treatment and continuation of these unacceptable behavior patterns described above and in the petition.

It is also questioned if these patterns described in the petition may not be limited to the said examiners, but would point to the direction of a problem in the organization. (See e.g. page 3 lines 6-7) of this reply.

5) Furthermore, the applicant was informed that the application is addressed to the Commissioner of Patents, but it would not reach him (“this is why he is employing ten thousand people” – PTO ref# 1146372235 on 7-17-09). If this petition is a quality improvement problem as well, - in light of the extent and the seriousness of the behavior patterns described – I would reasonably expect that the Commissioner of Patents would be informed of my petition. It is of note that the subject matter of this application is newsworthy, it could save many lives (with the analogy drawn in my reply to the extent of the lives that could be saved in the neighborhood of the fatalities of the worst infectious epidemics of all times – [exceeding HIV and AIDS etc]), and also newsworthy because the FDA directors in prime time media coverage and in front page interviews have missed recognizing the solution offered by my invention. This was discussed under secondary factors. It would be prudent to give a chance to the Commissioner of Patents to familiarize himself to this petition rather than potentially learning of the problems occurred in the USPTO from the media. This is purely mentioned altruistically, as reaching out for improvement within the PTO and in order to avoid a similar treatment to other applicants being exposed to the same adverse treatment as this applicant. If you feel that this has hurt your feelings than that was not my intention and an apology is hereby given. (See also quotation under #2) above).

6) It is of note that to my inquiry at the PTO Inventor Assistance Center I was suggested that I could file an appeal if my petition was dismissed, but to my knowledge the petition was created exactly for the purpose this applicant is seeking a remedy for, that is for objection on procedural matter. Again to my understanding the appeal process specifically does not deal with procedural matter, so my only recourse within the PTO is the petition for that purpose. For this reason (in addition of what was said before) I find it even more important of not to dismiss my petition.

You can see why I would see a learned helplessness, that I go nowhere with the PTO, my applications/replies are not read (etc), and I’m just feeling pushed around. – See PTO ref# 1146372235 on 7-17-09.

7) It is of note that the current OA has offered no remedy before the OA would become final, and there was no promise of reply to my numbered points and to the objections raised in the petition. Because in the PTO’s OA regarding my other Application (Serial Number 11/034,447) some of the very same objected patterns were continued, the applicant viewed that as the continuation of adverse treatment and filed a petition to the Commissioner of Patents on April 17, 2009 on that pending application as well. In the OA to that other petition there was **incongruence** with the rules to this instant OA: Although that OA was also not final, it permitted and informed me my right for a reconsideration before a final OA would be issued. This informing of my right was missing in the instant OA and was incongruent with the other OA.

The applicant was also not sure in lack of clear instruction of whether or not his application would become abandoned if he would not reply within the allowed two months of time frame, especially

since it was confusing that the paragraph preceding on the instruction of the two months time frame was specifically instructing that no renewed petition can be filed until the action is final.

It is also of note that the name of the decision maker (Nancy Johnson) of this instant OA was missing in the OA – as PTO ref# 1146372235 on 7-17-09.

8) This applicant views that the objected PTO behaviors and also the dismissal of the petition to the Commissioner of Patents (for the reason given, or for any reason) is incongruent with the greater mission of the PTO to encourage patent applications, and the advancement of science and the society. The applicant feels that the treatment he received would discourage him to even attempt to file any other patent applications or to work on any inventions.

SUMMARY AND CONCLUSIONS

In view of the foregoing, it is respectfully submitted that a reconsideration is requested on objections on procedural matters, petition to the PTO commissioner to overrule a subordinate, and the AMENDMENT AND RESPONSE submitted on March 11, 2009.

In view of the foregoing, it is also respectfully submitted that the amended claims are supported by an enabling disclosure and are patentable over the applied art. As a result, it is respectfully submitted that Claims 1-38, 41-43 and 48-143 and new Claims 144-147 are in proper form for issuance of a Notice of Allowance and such action is respectfully requested at an early date.


If for any reason you would feel that any of the claims as amended would not be allowed, please schedule a meeting with the Applicant.

The Applicant's cell phone number (voicemail identifying him) is:

(724)840-0464

Please note, that the Applicant have lost his attorney representation, and is relying on your guidance.

Respectfully submitted,


Peter Migaly, M.D.